

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TERRY R. CHINAVARE,

Plaintiff,

v.

DTE ENERGY RETIREMENT PLAN,

Defendant.

Case No. 2:10-CV-11492-PJD-MAR

Hon. Patrick J. Duggan

Mag. Mark A. Randon

MICHAEL H. CUTLER (P44437)
Cutler & Associates, P.C.
Attorneys for Plaintiff
38275 W. Twelve Mile Road, Suite 102
Farmington Hills, MI 48331
(248) 489-8780

THOMAS A. CATTEL (P32538)
Ogletree, Deakins, Nash, Smoak & Stewart, PLLC
Attorneys for Defendant
33 Bloomfield Hills Parkway, Suite 120
Bloomfield Hills, MI 48304
(248) 593-6400
thomas.cattel@ogletreedeakins.com

**STIPULATED ORDER TO SET ASIDE STATE COURT ORDER AND DISMISS
COMPLAINT WITHOUT PREJUDICE AND WITHOUT COSTS OR FEES**

WHEREAS, the Plaintiff filed this action in state court and obtained an Order requiring Defendant to pay certain benefits (Exhibit A);

WHEREAS, the order entered in state court cannot be enforced as Defendant was never properly served in this matter and any Order to pay benefits is preempted by ERISA;

WHEREAS, Defendant removed this matter to federal court upon learning of the Complaint and the Order entered in state court;

WHEREAS, any action to enforce benefits is premature as Plaintiff has not exhausted his administrative remedies under ERISA;

THEREFORE, IT IS HEREBY ORDERED that the Wayne County Circuit Court Order Directing Defendant to Submit Payments and Awarding Plaintiff His Attorney Fees/Costs dated January 25, 2010 in this matter (Exhibit A), shall be dismissed as if *void ab initio* and of no effect;

IT IS FURTHER ORDERED that this matter be DISMISSED without prejudice and without costs or attorney fees to either party.

THIS IS A FINAL ORDER WHICH DISPOSES OF ALL CLAIMS IN THE CASE.

SO ORDERED.

s/Patrick J. Duggan
Patrick J. Duggan
United States District Judge

Dated: April 21, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 21, 2010, by electronic and/or ordinary mail.

s/Marilyn Orem
Case Manager

Approved as to form:

s/Michael H. Cutler with consent
MICHAEL H. CUTLER (P44437)
Cutler & Associates, P.C.
Attorneys for Plaintiff
38275 W. Twelve Mile Road, Suite 102
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s/Thomas A. Cattel
THOMAS A. CATTEL (P32538)
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Dated: April 21, 2010

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

TERRY R. CHINAVARE,

Plaintiff,

vs

DTE ENERGY RETIREMENT PLAN,

Defendant.

CHINAVARE, TERRY R v DTE ENERGY R
Hon. Michael F Sapala 12/14/2009

09-030592-CZ

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38275 W. Twelve Mile Road, Ste. 102
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**ORDER DIRECTING DEFENDANT TO SUBMIT PAYMENTS
AND AWARDING PLAINTIFF HIS ATTORNEY FEES/COSTS**

At a session held in the City of Detroit,
County of Wayne, State of Michigan, on
JAN 25 2010

MICHAEL F. SAPALA

PRESENT:

Circuit Court Judge

This matter having come unto the Court upon Terry R. Chinavare's Complaint for Order to Show Cause, and an Order to Show Cause being scheduled by the Court for the parties to appear on January 4, 2010, at 9:00 a.m., and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that Defendant DTE Energy Retirement Plan shall forthwith submit payment in the amount of Six Thousand, One and 80/100 (\$6,301.80) Dollars to Plaintiff Terry R.

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

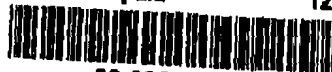
TERRY R. CHINAVARE,

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vs

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Defendant.

CHINAVARE, TERRY R v DTE ENERGY R
Hon. Michael F Sapala 12/14/2009

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

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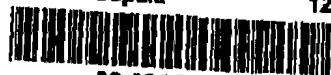
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DTE ENERGY RETIREMENT PLAN,

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JAN 25 2010

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IT IS HEREBY ORDERED that Defendant DTE Energy Retirement Plan shall forthwith submit payment in the amount of Six Thousand, One and 80/100 (\$6,301.80) Dollars to Plaintiff Terry R.

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(248) 489-8780

Chinavare. Payment shall be directed to Plaintiff counsel's office, located at 38275 W. Twelve Mile Road, Ste. 102, Farmington Hills, MI 48331.

IT IS FURTHER ORDERED that Defendant DTE Energy Retirement Plan shall commence Plaintiff's monthly benefits in the amount of \$630.18, per month, commencing January 23, 2010, until further Order of the Court.

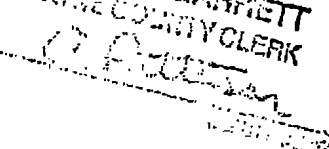
IT IS FURTHER ORDERED that Defendant shall submit a payment to Plaintiff's counsel in the amount of Two Thousand (\$2,000.00) Dollars reflecting Plaintiff's attorney fees and costs.

MICHAEL F. SAPALA

Circuit Court Judge

Prepared by:


MICHAEL H. CUTLER (P44437)
Attorney for Plaintiff
38275 W. Twelve Mile Road, Ste. 102
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A TRUE COPY
CATHY M. GARRETT
KIMBLE COUNTY CLERK


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Farmington Hills,
Michigan 48331
(248) 489-8780

Chinavare. Payment shall be directed to Plaintiff counsel's office, located at 38275 W. Twelve Mile Road, Ste. 102, Farmington Hills, MI 48331.

IT IS FURTHER ORDERED that Defendant DTE Energy Retirement Plan shall commence Plaintiff's monthly benefits in the amount of \$630.18, per month, commencing January 23, 2010, until further Order of the Court.

IT IS FURTHER ORDERED that Defendant shall submit a payment to Plaintiff's counsel in the amount of Two Thousand (\$2,000.00) Dollars reflecting Plaintiff's attorney fees and costs.

MICHAEL F. SAPALA

Circuit Court Judge

Prepared by:


MICHAEL H. CUTLER (P44437)
Attorney for Plaintiff
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A TRUE COPY
CATHY M. GARRETT
KING COUNTY CLERK
CLERK

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Chinavare. Payment shall be directed to Plaintiff counsel's office, located at 38275 W. Twelve Mile Road, Ste. 102, Farmington Hills, MI 48331.

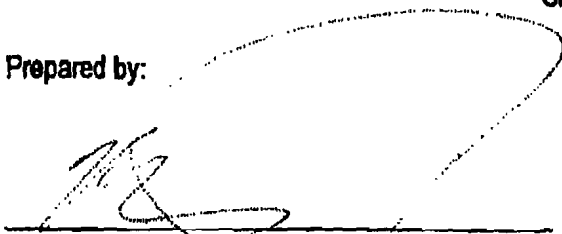
IT IS FURTHER ORDERED that Defendant DTE Energy Retirement Plan shall commence Plaintiff's monthly benefits in the amount of \$630.18, per month, commencing January 23, 2010, until further Order of the Court.

IT IS FURTHER ORDERED that Defendant shall submit a payment to Plaintiff's counsel in the amount of Two Thousand (\$2,000.00) Dollars reflecting Plaintiff's attorney fees and costs.

MICHAEL F. SAPALA

Circuit Court Judge

Prepared by:


MICHAEL H. CUTLER (P44437)
Attorney for Plaintiff
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Farmington Hills, MI 48331
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A TRUE COPY
CATHERINE M. GARRETT
KIRKCOCK COUNTY CLERK
JUL 17 2010

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